

**2011 DRAFTING REQUEST**

**Bill**

Received: **11/16/2011**

Received By: **mgallagh**

Wanted: **As time permits**

Companion to LRB:

For: **Jon Richards (608) 266-0650**

By/Representing: **Christian**

May Contact:

Drafter: **mgallagh**

Subject: **Children - juvenile justice**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.wisconsin.gov**

Carbon copy (CC:) to: **michael.gallagher@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Add reckless injury and recklessly endangering safety to the list of crimes that qualify for serious juvenile offender program

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 12/05/2011	mduchek 12/05/2011					S&L
/1			jfrantze 12/05/2011		sbasford 12/05/2011	lparisi 01/17/2012	

FE Sent For:

<END>

*at intro  
2-1-12*

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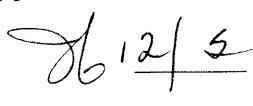
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/?	mgallagh	 12/5/11		12/5			

FE Sent For:

<END>

## Gallagher, Michael

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**From:** Malaise, Gordon  
**Sent:** Monday, November 14, 2011 2:57 PM  
**To:** Gallagher, Michael  
**Subject:** FW: bill drafting request (Serious Juvenile Offender Program)

Mike:

Here is a juvenile justice drafting request. They want to add reckless injury under s. 940.23 and recklessly endangering safety under s. 941.30 to the list of crimes under s. 938.34 (4h) (a) for which a juvenile may be placed in the serious juvenile offender program.

Gordon

-----Original Message-----

**From:** Moran, Christian  
**Sent:** Monday, November 14, 2011 2:10 PM  
**To:** Malaise, Gordon  
**Subject:** bill drafting request (Serious Juvenile Offender Program)

Gordon,

Please draft a bill that adds Reckless Injury and Recklessly Endangering Safety to the crimes listed under 938.34(4h)(a) that make certain juveniles eligible for placement in the Serious Juvenile Offender Program (938.538).

See below for the back story on why this legislation is necessary. Steve Licata is an Assistant District Attorney for Milwaukee County.

Thanks for your help.

Christian

Christian T. Moran  
Office of Representative Jon Richards  
State Capitol, 118 North  
Madison, WI 53708  
608-266-0650

-----Original Message-----

**From:** Licata & Moor Family [mailto:licatamoore1@sbcglobal.net]  
**Sent:** Thursday, November 10, 2011 4:55 PM  
**To:** Rep.Richards  
**Subject:** Serious Juvenile Offender Disposition issue

Dear Representative Richards,

It was nice to see you at the Milwaukee Children's Court Center this week and I look forward to seeing you in Judge Donald's court next week.

Here is the issue regarding the (SJO) disposition that we discussed during your visit: the SJO law can be found at sections 938.538 and 938.34(4h) of the Juvenile Justice Code. Section 938.538 describes the program but it is section 938.34(4h) that defines which crimes are eligible for the SJO disposition.

These statutory sections were part of the revision of the Juvenile Code that took effect in 1995 and the creation of the SJO disposition has had important effects in juvenile court, especially where the frequency of serious, violent crime may, unfortunately, be greater than in other parts of the state.

As a prosecutor, I like the SJO law and I think most defense attorneys do also. Why is there common ground among prosecutors and defense attorneys in that respect? Because the SJO gave the juvenile court judges a powerful dispositional option to use with those serious felonies delineated in section 938.34(4h). The SJO certainly has cut down on the number of juveniles waived to adult court...hence the law is well-received by defense attorneys. As a prosecutor, I too like the law because it provides a realistic option to waiver to adult court in many cases. The SJO disposition is a 5 year commitment to the juvenile Division of Corrections of which a maximum of three of those years can be behind the fence at Lincoln Hills. The remaining time can not be in an incarcerated setting but can still be in an out of home placement such as a group home or residential treatment center if needed or it can be at home on a stringent aftercare/parole program of supervision. I consider the SJO to be a viable alternative to waiver in certain cases because it is a disposition that has real teeth and provides for a realistic amount of time to work with serious offenders. Five years is almost a third of the life of these offenders. So I like the law and favor use of the SJO in appropriate cases. Again, I think defense lawyers and judges also find the law to be a good one and to provide a useful tool for addressing serious juvenile offenders.

But there are some anomalies in the law in terms of who qualifies for the SJO disposition. Armed robbery qualifies and is the crime where we most often use the SJO. But the crime of Reckless Injury, for instance, is not listed among the qualifying offenses set forth in section 938.34(4h). My colleagues and I have always scratched our heads over the fact that if I come up to you with my finger in my pocket pretending that I have a weapon and I demand your wallet (armed robbery), then that qualifies me for the SJO disposition but if I approach you and shoot you in both your kneecaps, seriously wounding you, (Reckless Injury...but falling short of attempted first degree intentional homicide), that offense would not qualify me for the SJO. Odd to say the least.

The effect of this anomaly is that serious shootings (that fall short of attempt murder) can result in a maximum juvenile court disposition of a 2 year commitment to the Division of Corrections or a commitment to age 18 (whichever is shorter) or we can pursue waiver to adult court. The only rationale that I can think of for the legislature to have not included Reckless Injury or Recklessly Endangering Safety as SJO-eligible offenses is if they wanted to see those kids at age 15 or 16 who commit those offenses be waived to adult court (since a regular non-SJO commitment to the Division of Corrections may just be too short or too lenient given the severity of the crime). But I am only speculating. It still seems to me to be a rather glaring omission or anomaly in the law.

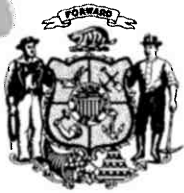
Hope that gives you the information that you were seeking.

Thank you for your interest in the juvenile justice system and for coming to visit the trenches in Milwaukee County. My colleagues and I are impressed that you are visiting us and looking at these issues.

Again, I look forward to seeing you next week.

Best regards,

Steve Licata  
Assistant District Attorney



In. 12/5 Wrote by 12/7 Thomas

State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3502

MPG;.....

med

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT <sup>from</sup>; relating to: addition of crimes that qualify a juvenile for the Serious  
2 Juvenile Offender Program.

assigned to exercise jurisdiction under  
the Juvenile Justice Code

**Analysis by the Legislative Reference Bureau**

Under current law, a court may enter a dispositional order that requires a juvenile to participate in the Serious Juvenile Offender Program if the juvenile has committed certain felony crimes. The Serious Juvenile Offender Program provides a juvenile with supervision, care, and rehabilitation that is more restrictive than ordinary supervision in the community and includes component phases that are intensive, highly structured, and based on public safety considerations and the participant's need for supervision, care, and rehabilitation.

This bill adds first and second degree reckless injury and first and second degree recklessly endangering safety to the crimes that qualify a juvenile for participation in the Serious Juvenile Offender Program.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3 SECTION 1. 938.34 (4h) (a) of the statutes is amended to read:

4 938.34 (4h) (a) The juvenile is 14 years of age or over and has been adjudicated  
5 delinquent for committing or conspiring to commit a violation of s. 939.32 (1) (a),

1 940.03, 940.06, 940.21, 940.23, 940.225 (1), 940.305, 940.31, 941.30, 941.327 (2) (b)  
2 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1), 948.025 (1), or 948.30 (2) or  
3 attempting a violation of s. 943.32 (2) or the juvenile is 10 years of age or over and  
4 has been adjudicated delinquent for attempting or committing a violation of s. 940.01  
5 or for committing a violation of s. 940.02 or 940.05.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321; 2005 a. 14, 253, 277, 344; 2007 a. 97, 116; 2009 a. 8, 28, 103, 137, 185, 302, 334; 2011 a. 32; s. 13.92 (2) (i).

6 **SECTION 2. Initial applicability.**

7 (1) This act first applies to a violation of section 940.23 or 941.30 of the statutes  
8 that occurs on the effective date of this subsection.

9 (END)

**Parisi, Lori**

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**From:** Moran, Christian  
**Sent:** Tuesday, January 17, 2012 3:50 PM  
**To:** LRB.Legal  
**Cc:** Carpenter, Dan  
**Subject:** bill jacket request from Rep. Richards' office

Please jacket the following two bills for introduction in the Assembly by Rep. Richards:

LRB-3502/1 relating to: the addition of crimes that qualify a juvenile for the Serious Juvenile Offender Program.

LRB-3706/1 relating to: the life and public service of Jean Lucey.

---

Christian T. Moran  
Office of Representative Jon Richards  
State Capitol, 118 North  
Madison, WI 53708  
608-266-0650